



PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 59643.00353
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]		Application Number: 10/702,051 Filed: November 6, 2003
on _____		First Named Inventor: Jorge MELGOSA
Signature _____		Art Unit: 2688
Typed or printed Name _____		Examiner: Emem Ekong

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- Applicant/Inventor.
 assignee of record of the entire interest.
See 37 CFR 3.71. Statement under
37 CFR 3.73(b) is enclosed
 Attorney or agent of record.
Registration No. 58,178
 Attorney or agent acting under 37 CFR 1.34.
Reg. No. is acting under 37 CFR 1.34 _____

Signature

Peter Flanagan
Typed or printed name

703-720-7800
Telephone number

June 2, 2006
Date

NOTE: Signatures of all of the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- *Total of _____ forms are submitted.



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Confirmation No.: 7417

Jorge MELGOSA

Art Unit: 2688

Application No.: 10/702,051

Examiner: Emem Ekong

Filed: November 6, 2003

Attorney Dkt. No. 59643.00353

For: COMMUNICATION SYSTEM WITH CHARGING CAPABILITY

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

June 2, 2006

This is a Pre-Appeal Brief Request for Review from the final rejection set forth in an Office Action dated February 2, 2006 (“the Office Action”), and maintained in an Advisory Action of May 19, 2006 (“the Advisory Action”), finally rejecting claims 1, 4-11, 13 and 19-40, under 35 U.S.C. 103(a) to which a response was filed May 2, 2006 (“the Response”). Applicant respectfully submits that the rejections contain clear error with respect to at least one element of each of the independent claims, and thus requests that the rejections be reversed.

Claim 13 was rejected as anticipated by Deakin. Claims 1 and 4-10 were rejected as obvious over Lucidarme in view of Deakin. Claim 11 was rejected as obvious over Lucidarme in view of Deakin and further in view of Wuschke. Claims 19-20 and 31-40 were rejected as obvious over Wuschke in view of Deakin (which is misspelled as “Hurtta” in the rejection). Claims 21-30 were rejected as obvious over Deakin in view of Wuschke. The details of the rejections are set forth in the Office Action at items 3 and 6-9, beginning on page 2. The clear errors of the various rejections relate to the teachings of Deakin, which is used in each of the rejections.

Deakin Does not Disclose Information Identifying a Default Charging Node

The Office Action clearly erred in asserting that Deakin discloses “information identifying one of a plurality of charging nodes … as a default charging node for said session” as recited by claim 13. The Office Action and Advisory Action took the position that these features are disclosed by Deakin at column 1, line 64 to column 2, line 40. Applicant respectfully submits that this analysis constitutes clear factual error.

The word “default” is never used by Deakin, and the concept of a “default charging node” is never conveyed in any way or under any other description by Deakin. The passage cited by the Office Action is no exception. The passage cited by the Office Action refers to a “Billing Class Identifier” (BCI).

The BCI, according to Deakin, is a “new parameter within the [Home Location Register] HLR” as explained at column 2, lines 38-39. Furthermore, the BCI “can be assigned to either the basic services or supplementary services” as explained at column 2, lines 39-40. The BCI “can be used by the Mobile network to route the Call Event Data for a subscriber or individual service of a subscriber to the correct billing system for processing” as explained at column 2, lines 41-44. Additionally, Deakin explains, at column 1, line 67 to column 2, line 4, the “Charging Gateway is able to provide the routing of [Call Detail Records] CDR’s to a Billing System based on the Billing Class Identifier (BCI) … for those Network Elements that do not provide this functionality.”

This description does not indicate, in any way, that the BCI is or contains “information identifying one of a plurality of charging nodes … as a default charging node for said session.” Indeed, Deakin’s examples, at column 4, lines 40-50 of the contents of the BCI illustrate that the BCI has absolutely nothing to do with “identifying one of a plurality of charging nodes … as a default charging node for said session.”

Applicant respectfully points out that the BCI is used to route “to the correct billing system for processing.” (emphasis added) Applicant respectfully submits that the concept

of a “correct” billing system is fundamentally antithetical to the concept of a “default” billing system. Accordingly, even if the “billing systems” described at column 2, lines 45-52 corresponded to the claimed “plurality of charging nodes” (not admitted), the BCI does not contain “information identifying one of a plurality of charging nodes … as a default charging node for said session.”

The Advisory Action identified as the claimed “plurality of charging nodes” the following: “plurality of billing system, and charging gateway” [sic]. Applicant respectfully submits that it is unclear whether the Advisory Action meant that the BCI identifies one of “the billing system and the charging gateway” as the “default” or whether the Advisory Action meant something else. In any event, the charging gateway, of which there is only one in Deakin, is not similar to the billing systems, of which there are a plurality in Deakin.

The charging gateway performs entirely different functions from the billing systems. Accordingly, there is no reason for the BCI to indicate a billing system as “default” with respect to a charging gateway, or vice versa. Additionally, because there is only one charging gateway, there is no reason for Deakin to indicate that the one charging gateway is “default” in the BCI.

Thus, it can clearly be seen that there is neither any disclosure or suggestion of any charging node of any kind being identified as “default” nor is there any disclosure in Deakin that would motivate one of ordinary skill in the art to modify the disclosed BCI to identify a particular charging node as “default.”

Claim 1 recites “said memory comprising means for storing information identifying one of said charging nodes as being a default charging node,” and claim 19 recites “a memory for storing information identifying a default charging node.” Deakin also clearly does not disclose these features as can be seen from the explanation above.

It is undisputed that Lucidarme and Wuschke do not disclose or suggest these features. As the Advisory Action indicated, Deakin was cited for the “the limitations not disclosed by” Lucidarme and Wuschke. Accordingly, clearly none of the various

combinations of cited references discloses or suggests the above-identified features of independent claims 1, 13, and 19.

Claims 4-11 and 20-40 depend from claims 1, 13, and 19 respectively and recite additional limitations. Accordingly, claims 4-11 and 20-40 clearly recite subject matter that is neither disclosed nor suggested in the cited references. Thus, it is respectfully requested that the rejections of all of claims 1-2, 4-11, 13, and 19-40 be reversed.

Conclusion

For the reasons explained above, it is respectfully submitted that there is clear factual error with regard to the rejection of claims 1-2, 4-11, 13, and 19-40. Claim 1-2, 4-11, 13, and 19-40 clearly recite subject matter that is not taught by Deakin, alone or in combination with the other cited references. Therefore, it is respectfully requested that the rejection of claims 1-2, 4-11, 13, and 19-40 be reversed, that the claims be allowed, and that this application be passed to issue.

Respectfully submitted,



Peter Flanagan
Registration No. 58,178

Customer No. 32294
Squire, Sanders & Dempsey L.L.P.
8000 Towers Crescent Drive, 14th Floor
Tysons Corner, VA 22182-2700
Tel: (703) 720-7800
Fax (703) 720-7802

PCF:kmp

Enclosures: Notice of Appeal
Form PTO/SB/33
Petition for One-Month Extension of Time
Check No. 14547